

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**RESOLUTION E-4783**

**July 14, 2016**

**R E S O L U T I O N**

Resolution E-4783. Resolution authorizing San Diego Gas & Electric Company's Power Purchase Agreement with Solar Frontier for the 97WI 8ME LLC project.

**PROPOSED OUTCOME:**

- Approval of San Diego Gas & Electric's (SDG&E) power purchase agreement with Solar Frontier for the 97WI 8ME LLC project for SDG&E's SunRate program.
- Orders SDG&E to contract with eligible projects to meet its Renewable Auction Mechanism procurement requirement.

**SAFETY CONSIDERATIONS:**

- The Solar Frontier power purchase agreement contains Commission approved safety provisions.

**ESTIMATED COST:**

- Actual costs are confidential at this time.

By Advice Letter 2849-E, Filed on January 15, 2016.

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**SUMMARY**

San Diego Gas & Electric Company's Power Purchase Agreement (PPA) with Solar Frontier for the 97WI 8ME LLC project is approved. SDG&E filed Advice Letter 2849-E on January 15, 2016, requesting California Public Utilities Commission (Commission) review and approval of a PPA with the 97WI 8ME project from Solar Frontier (Solar Frontier project). The PPA was executed pursuant to the Green Tariff Shared Renewables (GTSR) program. Pursuant to the proposed PPA, SDG&E will purchase renewable energy and associated Renewable Energy Credits from the 20 megawatt (MW) Solar Frontier project located in Imperial Valley.

SDG&E has not met its Commission mandated Renewable Auction Mechanism (RAM) targets. SDG&E is ordered to contract with eligible projects from the bids it received in its sixth RAM (RAM VI) solicitation or hold a seventh RAM solicitation.

## **BACKGROUND**

On December 18, 2010, the Commission approved the RAM program by adopting Decision (D.)10-12-048 and directed Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), and SDG&E (collectively the Investor-owned Utilities or the IOUs) to hold four auctions over a two year period and to submit bidding protocols and standard contracts through Tier 3 advice letters. In August 2011, the IOUs' advice letters were approved with modification in Resolution E-4414, which adopted program implementation details, bidding protocols, and a standard RAM PPA.

The Commission further refined the RAM program through Resolution E-4489 (April 19, 2012), Resolution E-4546 (November 8, 2012), Resolution E-4582 (May 9, 2013), Resolution E- 4655 (May 15, 2014), and D.14-11-042 (November 24, 2014). In D.14-11-042, the Commission required additional procurement and directed the IOUs to conduct a RAM VI solicitation.

On February 2, 2015, the Commission issued D.15-01-051, which ordered the IOUs to begin advance procurement for the GTSR program using the RAM VI solicitation. D.15-01-051 also sets aside 100 MW for facilities no larger than 1 MW located in areas previously identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities (Environmental Justice or EJ Reservation), in accordance with Senate Bill 43 (Wolk, 2013), which established the GTSR program. SDG&E was ordered to procure at least 10.5 MW for advance GTSR procurement requirements with 1.75 MW for its EJ Reservation.

## **NOTICE**

Notice of AL 2849-E was made by publication in the Commission's Daily Calendar. SDG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

## **PROTEST**

On February 4, 2016 Rugraw LLC (Rugraw)<sup>1</sup> protested Advice Letter 2849-E. SDG&E responded on February 11, 2016 to Rugraw's protest. Staff considered Rugraw's comments but limits the discussion to relevant issues.

Rugraw asserts that SDG&E is discriminating against baseload bids by selecting bids after evaluating all product categories (peaking, non-peaking or baseload) together instead of evaluating bids within each product category separately. SDG&E responded that RAM is not a must-take obligation and that SDG&E compares the RAM bids relative to other renewable opportunities, not just those within a particular product category. D.10-12-048<sup>2</sup> authorized an IOU to solicit product-specific megawatts in a quantity that reflects an IOU's portfolio need and mandated that RAM bid prices must be adjusted by an IOU's time of delivery (TOD) factors before the bids are ranked and selected, so that the project's value relative to the IOU's portfolio is considered.

SDG&E was not obligated to shortlist or execute bids within each product category. Consequently, Rugraw's protest that SDG&E is discriminating against baseload bids is denied.

Rugraw also asserts that they submitted a proposal in RAM VI and that the PPA price submitted for the proposal in RAM VI was for less than the RAM IV PPA price. According to Rugraw, by definition, the RAM VI Rugraw proposal was price competitive to baseload bids received by SDG&E. Rugraw's claim is contrary to current RAM policy.

Each RAM auction is a standalone auction. Any comparison of price between the average price of contracts in a previous RAM auction and bid price in a current RAM auction is irrelevant, as bid prices are compared against all other bids received in the same auction. Rugraw's protest that the RAM VI bid price is competitive based on its comparison with the RAM IV average contract price is denied.

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<sup>1</sup> Rugraw LLC is the developer of the 5 MW Lassen Lodge Hydroelectric Project.

<sup>2</sup> D.10-12-048, Section 7.3.

## **DISCUSSION**

Pursuant to D.15-01-051 and D.14-11-042, SDG&E filed Tier 2 advice letter 2849-E seeking approval of a contract towards its GTSR and RAM obligations.

### **GTSR Procurement Requirements**

SDG&E is seeking approval of the 20 MW Solar Frontier project towards meeting its advanced procurement GTSR requirements. The proposed agreement is as follows:

Technology	Company Name	Project Name	Contract Capacity (MW)	Annual GWh	Project Location	Term (yrs)	COD
Solar PV	Solar Frontier	97WI8ME LLC (MidwaySolar Farm III)	20	58.3	Calipatria, CA	20	24 months post CPUC approval

The requirements of the D.15-01-051 (in italics) and how SDG&E complied with the requirements of D.15-01-051 are listed below:

- *Project size should range from 500 kW to 20 MW (measured by nameplate rating):*<sup>3</sup> The Solar Frontier project is 20 MW contract capacity and meets the size limit in D.15-01-051.
- *For advance procurement in 2015, the IOUs will rely on prices resulting from the existing RAM and ReMAT processes:*<sup>4</sup> In accordance with D.15-01-051, SDG&E used the RAM VI auction to procure the Solar Frontier project. SDG&E used its own quantitative price measure, the Bid Ranking Price,<sup>5</sup> to rank and select from the proposed projects for both RAM and GTSR. Once SDG&E established a Bid Ranking Price for each offer, it selected the projects with the least expensive Bid Ranking Price. In order to meet the GTSR procurement target, SDG&E considered the least expensive

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<sup>3</sup> D.15-01-051, page 36.

<sup>4</sup> D.15-01-051, page 38.

<sup>5</sup> The Bid Ranking Price is comprised of the levelized contract cost, as adjusted by the time of day adjustment, the transmission network upgrade cost adder and the deliverability adder.

GTSR-eligible bids for GTSR procurement first and shortlisted the Solar Frontier project. Because the first shortlisted bid accepted its shortlisted position, SDG&E met its GTSR initial advanced procurement capacity targets with the least-cost bid, which is the Solar Frontier project.

- *Projects must meet the same minimum viability requirements established for ReMAT and RAM:* <sup>6</sup> The PPA included in the Advice Letter as Appendix A includes the viability requirements established in RAM Decisions. SDG&E used the standard RAM contract for the Solar Frontier project.
- *Procurement is limited to the IOU's service territory but SDG&E may procure resources from Imperial Valley:* <sup>7</sup> The Solar Frontier project is located in Imperial Valley.

D.15-01-051<sup>8</sup> also directed SDG&E to procure 1.75 MW to meet its GTSR EJ Reservation requirement. While SDG&E was not able to comply with the EJ Reservation mandate of D.15-01-051 due to a lack of bids in the EJ Reservation area.

The Solar Frontier project meets the requirement of D.15-01-051 and is reasonable.

### **RAM Procurement Requirements**

SDG&E did not seek approval of any contracts towards meeting the RAM VI mandate of D.14-11-042 and previous RAM decisions.<sup>9</sup> The Commission mandated that SDG&E procure 164.7 MW over six RAM auctions. SDG&E procured 62.7 MW and has an overall shortfall of 102.3 MW (62% shortfall).

SDG&E asserts that D.10-12-048 gives IOUs the discretion to not enter into RAM contracts if prices are not cost competitive even if their allocated capacity cap has

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<sup>6</sup> D.15-01-051, page 38.

<sup>7</sup> D.15-01-051, Findings 32 and 33.

<sup>8</sup> D.15-01-051, Ordering Paragraph 8.

<sup>9</sup> D.10-12-048, D.12-02-002, D.12-02-035.

not been reached.<sup>10</sup> However, SDG&E has over relied on the discretion provided in D.10-12-048.

- SDG&E explains that for RAM VI, SDG&E initially sought to shortlist one bid and contingently shortlist four other bids subject to follow-up with respondents on those bids. It is not clear why SDG&E would initially shortlist one 20 MW project to meet a RAM shortfall of 102.3 MW, especially given that 13 separate bidders responded to its RAM VI solicitation for a total of 35 conforming bids.<sup>11</sup> SDG&E did not shortlist enough bids to meet its target in the RAM VI auction.
- SDG&E argues that the remaining bids were “not cost competitive.” Consequently, SDG&E did not shortlist any additional bids. SDG&E’s basis for rejecting bids is that the bids were not the top 10% of bids in terms of bid ranking price in the RAM VI solicitation and comparison to previous solicitations. A bid not being in the top 90 percentile of RAM bids is not sufficient evidence to establish that it is unreasonable and uncompetitive relative to the “IOU’s other renewable opportunities.” Additionally, the previous solicitations are not reasonable for comparison as they were conducted more than a year prior to the RAM VI auction and, as stated above, each RAM auction is a standalone auction. Therefore, SDG&E has not demonstrated that the unselected bids in the RAM VI solicitation are not reasonable.

SDG&E further asserts that not meeting its RAM targets is reasonable on the grounds that it does not have an RPS need.<sup>12</sup> While the Commission agrees that SDG&E is forecasted to meet its RPS requirements, SDG&E is ignoring that D.10-12-048 required RAM as a procurement opportunity for smaller renewable energy projects that are eligible for the California RPS Program but are not able

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<sup>10</sup> “Finally, we provide the IOUs with discretion to reject bids from an auction under two circumstances: there is evidence of market manipulation, or the prices are not competitive. An IOU may reject an entire auction’s results based on such an assessment or reject individual bids even before their allocated capacity cap has been reached. If an IOU wishes to utilize this discretion, it shall demonstrate in an advice letter filing to the Commission why bids were rejected before the capacity cap was exhausted.” (D.10-12-048, page 36)

<sup>11</sup> Advice Letter 2849-E, page 21.

<sup>12</sup> SDG&E’s RPS position 33% in 2015.

to participate in the RPS annual solicitation, and not just to fulfill RPS need.<sup>13</sup> RAM and several other RPS programs adopted by the Commission have been approved to promote the growth of specific renewable market segments and are not solely based on RPS need, e.g., the SB 1122 feed-in-tariff for bioenergy projects, ReMAT feed-in-tariff for smaller sized renewable projects, and the GTSR program for community based projects. In addition, D.12-02-002 combined SDG&E's solar photovoltaic (PV) program solar targets with RAM. The solar PV program authorized 26 MW of utility owned generation and 74 MW of power purchase agreements with independent power producers to incentivize small-scale PV facilities.<sup>14</sup> SDG&E's justification for not meeting RAM targets ignores Commission orders and is thus not reasonable.

SDG&E has not provided adequate justification why it was consistently unable to meet its RAM auction targets and/or why they were not able to meet their overall RAM procurement requirement. If SDG&E had reason to not meet a Commission mandate, it should have utilized an appropriate formal procedural vehicle to raise the issue with the Commission. Consequently, SDG&E is ordered to procure the remaining additional megawatts from the bids it received in its RAM VI solicitation or hold a seventh RAM solicitation to procure enough megawatts to meet its RAM requirement as ordered by D.10-12-048, D.12-02-002, D.14-10-042, and D.15-01-051. If a seventh Renewable Auction Mechanism solicitation is held, it shall close by June 30, 2017.

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<sup>13</sup> "This decision authorizes a new procurement process called the Renewable Auction Mechanism, or RAM, for the procurement of smaller renewable energy projects that are eligible for the California Renewables Portfolio Standard (RPS) Program. The RAM is a simplified and market-based procurement mechanism for large investor-owned utilities (IOU). The Commission adopts RAM as a primary contracting tool for this market segment because doing so will promote competition and elicit the lowest costs for ratepayers, encourage the development of resources that can utilize existing transmission and distribution infrastructure, and contribute to RPS goals in the near term. We expect RAM to complement the RPS Program by reducing transaction costs and providing a procurement opportunity for smaller RPS-eligible projects, which have not been able to effectively participate in the annual RPS solicitations to date" (D.10-12-048, page 2)

<sup>14</sup> D.10-09-016 adopted a solar PV program for SDG&E.

## **SAFETY**

Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public. RAM contracts contain Commission approved safety provisions, which require, among other things, the seller to operate the generating facility in accordance with Prudent Electrical Practices, as defined in the contracts, and all applicable requirements of law, including those related to planning, construction, ownership, and/or operation of the projects. These provisions specifically require that all sellers take a list of reasonable steps to ensure that the generation facility is operated, maintained, and decommissioned in a safe manner.

## **COMMENTS**

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this Resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments on June 16, 2016. On July 1, 2016, the Commission received comments from SDG&E, Pacific Gas and Electric Company (PG&E), the Office of Ratepayer Advocates, Rugraw LLC, Solar Frontier Americas Development LLC (Solar Frontier), and the “Joint Parties” which consists of Shell Energy North America, L.P., The Alliance for Retail Energy Markets, LEAN Energy US, Mann Clean Energy, The City of Lancaster, Direct Access Customer Coalition and Sonoma Clean Power Authority.

### **San Diego Gas & Electric Company Provides Various Comments on the Draft Resolution**

SDG&E argues that the Draft Resolution misclassifies RAM program capacity as a “must-take obligation,” and that the original RAM decision grants the IOUs



authority to reject bids that are not cost competitive.<sup>15</sup> Consequently, SDG&E states that the Draft Resolution's order for SDG&E "...to procure the remaining additional megawatts from the bids it received in its RAM VI solicitation," is in conflict with the original RAM decision.

Additionally, SDG&E argues that the draft resolution ignores the Commission's finding that the goals of the RAM program have been met.<sup>16</sup> SDG&E believes that they have complied with all RAM-related Commission directives and should not have to procure additional MW from their RAM VI bids. Furthermore, SDG&E believes that the Commission should find that SDG&E is absolved of all current and future RAM procurement obligations.

SDG&E is correct in their assertion that they have the authority to reject bids that are submitted to a given RAM solicitation if SDG&E finds the bids to be non-economic relative to their existing portfolio of resources, but that D.10-12-048 requires SDG&E to meet its overall RAM requirement. Further, D.14-11-042 considered adding more capacity to the RAM program and chose not to add additional capacity, however, the Decision did not absolve SDG&E or the other IOUs from the RAM procurement requirements previously adopted.

Additionally, the Commission disagrees with SDG&E's assertion that the MWs ordered in D.10-12-048 are a "procurement authorization" and not a "procurement requirement." Specifically, Ordering Paragraph 1 of D.10-12-048 states that the RAM program will have a "capacity limit and procurement requirement of at least 1,000 megawatts, allocated to the three electrical corporations." Therefore, SDG&E was required to meet their procurement obligation of 165 megawatts of RAM procurement by the end of the last authorized RAM solicitation, i.e., RAM VI.

As previously stated in this Resolution, if SDG&E had reason to not meet a Commission mandate, it should have utilized an appropriate formal procedural vehicle to raise the issue with the Commission.

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<sup>15</sup> SDG&E cites D.10-12-048, at p. 21.

<sup>16</sup>See D.14-11-042 at p. 91.

Additionally, SDG&E notes that the Draft Resolution states “SDG&E has not demonstrated that it attempted to procure any megawatts from the EJ Reservation... [meaning that it] did not comply with the EJ Reservation mandate of D.15-01-051.” SDG&E believes that they attempted to procure megawatts to meet their 2015 EJ target, however, their ability to procure EJ capacity was limited because no EJ project bids were submitted.

The Commission has reviewed AL 2849-E and determined that SDG&E did make a good faith effort to procure EJ resources to meet their EJ requirement. This Resolution has been amended accordingly.<sup>17</sup>

Finally, SDG&E requests that the Commission expedite the review and approval of the Solar Frontier PPA. SDG&E also recommends that Commission allow the parties to reasonably modify the PPA.

The Commission rejects SDG&E’s request that the Commission allow SDG&E and Solar Frontier to modify the PPA. SDG&E should use the designated Commission process to modify the Solar Frontier PPA.

**The Office of Ratepayer Advocates Requests that the Commission Accept SDG&E’s RAM VI Results**

ORA states that SDG&E made a good faith effort to attempt to shortlist multiple offers from the RAM VI solicitation. Additionally, ORA states that SDG&E demonstrated that the unselected bids were not reasonable by showing the price differences between bids on a per MW bid ranking price basis, and when the bids were compared to bids from other renewable solicitations.

Additionally, ORA states that the purpose of the RAM program was to meet RPS goals in the near term, however, SDG&E does not have any need for incremental RPS procurement until 2024. Consequently, ORA believes that the Commission should modify its order to procure any additional MWs from the RAM VI solicitation.

As previously stated in this Resolution, SDG&E was required by Commission order to procure 165 MW via RAM procurement by the end of the RAM VI

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<sup>17</sup> See p. 5.

solicitation. If SDG&E had reason to not meet a Commission mandate, it should have utilized an appropriate formal procedural vehicle to raise the issue with the Commission.

### **Pacific Gas and Electric Company Provides Various Comments on the Draft Resolution**

PG&E urges the Commission to consider whether the utilities should be directed to procure unneeded energy and/or capacity to further certain policy or regulatory objectives. Additionally, PG&E states if the Commission directs a utility such as SDG&E to procure unneeded RPS resources for specific policy or regulatory objectives, the costs related to that procurement should be shared by all customers in SDG&E's service territory, including Community Choice Aggregation ("CCA") and Direct Access ("DA") customers.

PG&E's argument fails because the Commission is not requiring SDG&E to procure additional RAM MW to "further certain policy or regulatory objectives," we are simply continuing to require the original RAM procurement requirement established in previous Commission decisions.

The Commission makes no finding in this Resolution regarding cost allocation as that issue is out of scope for this Resolution.

### **The Joint Parties Request that the Commission Reject PG&E's Recommendation Pertaining to Cost Allocation**

The "Joint Parties" ask the Commission to reject PG&E's recommendations pertaining to cost allocation of the RAM program.<sup>18</sup>

The Commission makes no finding in this Resolution regarding cost allocation.

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<sup>18</sup> The "Joint Parties" consists of Shell Energy North America, L.P., the Alliance for Retail Energy Markets, LEAN Energy US, Mann Clean Energy, the City of Lancaster, Direct Access Customer Coalition, and Sonoma Clean Power Authority.

### **Solar Frontier Urges the Commission to Expedite the Processing of this Resolution**

Solar Frontier requests that the Commission expedite the review and approval of the Solar Frontier PPA. Additionally, Solar Frontier recommends that the Commission modify the commercial operation date of the PPA to December 1, 2017.

The Commission rejects Solar Frontier's recommendation on modification of the commercial operation date. Solar Frontier should work with SDG&E and use the designated Commission process(es) if it seeks modification of the Solar Frontier PPA.

### **Rugraw LLC Recommends that the Commission Correct Some Language in the Draft Resolution**

Rugraw states that in the response to their protest the Commission states that "SDG&E was not obligated to evaluate bids within each product category..." Rugraw believes that this statement contradicts D.10-12-048 and D.14-11-042 that direct SDG&E to evaluate bids submitted through a RAM solicitation to be evaluated relative to other bids in like categories (i.e., baseload, peaking as-available, and non peak as-available electricity).

The Commission has amended the language that addresses Rugraw's protest to provide a better explanation of why the protest was rejected.<sup>19</sup>

### **FINDINGS**

1. SDG&E's 20 MW power purchase agreement with Solar Frontier meets its advanced procurement Green Tariff Shared Renewables (GTSR) requirements of D.15-01-051.
2. SDG&E has not met its 1.75 MW Environmental Justice target mandated in D.15-01-051.
3. SDG&E has a 62% shortfall towards meeting its Commission mandated Renewable Auction Mechanism (RAM) targets.

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<sup>19</sup> See p. 3 of this Resolution.

4. SDG&E has over relied on the discretion provided in D.10-12-048 to reject bids.
5. SDG&E did not shortlist sufficient bids to meet its target in the sixth RAM auction.
6. If SDG&E had reason to not meet a Commission mandate, it should have utilized an appropriate formal procedural vehicle to raise the issue with the Commission.
7. SDG&E's rational for not meeting RAM targets ignores a Commission order and, as such, is not justifiable.
8. A seventh Renewable Auction Mechanism solicitation may be held by San Diego Gas & Electric Company to procure the requisite megawatts to meet their remaining RAM requirements. If held, the seventh Renewable Auction Mechanism solicitation shall close by June 30, 2017.
9. Rugraw LLC's protest that SDG&E is discriminating against baseload product category for bid evaluation is denied.
10. Each RAM auction is a standalone auction.
11. Rugraw's protest that the RAM VI bid price is competitive based on its comparison with the RAM IV average contract price is denied.

**THEREFORE IT IS ORDERED THAT:**

1. San Diego Gas & Electric Company's Power Purchase Agreement with Solar Frontier for the 97WI 8ME LLC project is approved.
2. San Diego Gas & Electric Company is ordered to procure additional megawatts from the bids it received in its sixth Renewable Auction Mechanism solicitation, as required by D.10-12-048, D12-02-002, and D.14-10-042. Alternatively, San Diego Gas & Electric Company may hold a seventh Renewable Auction Mechanism solicitation. If San Diego Gas & Electric Company opts to hold a seventh Renewable Auction Mechanism solicitation, then the solicitation shall close by June 30, 2017.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on July 14, 2016; the following Commissioners voting favorably thereon:

/s/ Timothy J. Sullivan  
TIMOTHY J. SULLIVAN  
Executive Director

MICHAEL PICKER  
President  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
CARLA J. PETERMAN  
LIANE M. RANDOLPH  
Commissioners